



**U.S. Army Corps
Of Engineers**
Norfolk District

Fort Norfolk, 803 Front Street
Norfolk, Virginia 23510-1096

CENAO-CO-R
03-RP-22

REGIONAL PERMIT

Effective date: August 14, 2003

Expiration Date: August 14, 2008

Authorized Activities: Within Virginia Portion of Lake Gaston

1. Construction of boat docks, boat ramps and boathouses using materials commonly acceptable for their construction such as unsinkable flotation materials, pressure treated lumber, creosoted pilings, and concrete.
2. Excavation of boat slips and channels (channelward of the normal high pool elevation) for recreational boating.
3. Construction and backfilling of bulkheads and placement of riprap along eroding shorelines for shoreline stabilization and erosion control.
4. Installation of submerged and aerial power lines and utility lines where U. S. Coast Guard requirements for aerial lines are met and where bottom elevations are restored to pre-project contours for submerged lines.

The people of Mecklenburg and Brunswick Counties, Virginia are hereby authorized by the Secretary of the Army and the Chief of Engineers pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1989 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C.1344) to perform certain work within the Virginia portion of Lake Gaston as described herein.

In order to obtain authorization for any of the activities covered by this regional permit, the applicant must submit to the Corps of Engineers a copy of the North Carolina Power Construction and Use Agreement and drawings as required by the Reservoir Supervisor. If the proposed activity qualifies for this regional permit, the Corps of Engineers will send the applicant a letter acknowledging the qualification and stating that the applicant must first obtain proper approval from the Reservoir Supervisor before the proposed work may begin. The mailing addresses for the Corps of Engineers and the Reservoir Supervisor are as follows:

Army Corps of Engineers
Southside Field Office
Nottoway County Courthouse Annex
Post Office Box 121
Nottoway, Virginia 23955
(434) 645-8986

Reservoir Supervisor
Roanoke Rapids Power Station
North Carolina Power
Post Office Box 370
Roanoke Rapids, North Carolina 27870
(919) 535-6165

This regional permit does not preempt any approvals which may be required under law or regulations administered by the Federal Energy Regulatory Commission (FERC) or by the FERC licenses.

At his discretion, the Norfolk District Engineer may determine that this regional permit will not be applicable to a specific construction proposal. In such a case, an individual Department of the Army Permit will be required in accordance with 33 CFR 325.

TO QUALIFY FOR THIS REGIONAL PERMIT, THE ABOVE ACTIVITIES WOULD HAVE TO SATISFY ALL OF THE SPECIAL AND GENERAL CONDITIONS LISTED BELOW:

SPECIAL CONDITIONS:

1. For construction of boat docks, boat ramps and boathouses:

- a. For all floating facilities, flotation units shall be constructed of materials which will not become waterlogged or sink when punctured.
- b. The permittee must install and maintain, at his expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on the authorized facilities. The USCG may be reached at the following address and telephone number: Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23704-5004, telephone number (757) 398-6230.
- c. The permittee hereby recognizes the possibility that the structures permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this regional permit does not relieve the permittee from taking all proper steps to ensure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damages.
- d. The pouring of concrete for the construction of boat ramps must be accomplished within a cofferdam unless the activity can be performed completely in the dry, such as during lake drawdown periods. The introduction of uncured concrete into surface waters is prohibited.
- e. Piers may not extend more than one-fourth of the distance across the open water measured from ordinary low water or the channelward edge of the wetlands. Those proposed piers that will extend more than 300 feet from ordinary high water will not qualify for this Regional Permit, but may qualify for the Norfolk District's Regional Permit 18.

2. For excavation of boat slips and channels:

- a. All dredging will be limited to channelward of the normal high pool elevation. All dredged areas are to connect to existing lake bottom contours. Dead end canals will not be permitted under this regional permit.
- b. All excavated materials must be removed entirely to high ground and/or retained behind suitable retention structures to prevent their reentering the water and creating excess turbidity.

3. For construction of bulkheads and backfill and placement of riprap:

- a. Bulkhead and riprap structure alignments shall not extend farther than an average of 2 feet channelward of the normal high pool elevation. Under this regional permit, no portion of the structure shall extend farther than 5 feet from the normal high pool elevation or exceed a total length of 500 feet along the shoreline.
- b. Bulkhead and riprap structures must be placed as closely to the shoreline as is practicable. No material may be placed in excess of the minimum necessary for erosion protection.
- c. The work must be necessary to combat an existing erosion problem.
- d. The total amount of vegetated wetlands which may be filled, in square feet, must not exceed the length of the activity along the shoreline in linear feet (e.g. 100 square feet maximum for a 100-foot-long bulkhead.)
- e. All backfill material will be obtained from an upland source and confined landward of the permitted structure.
- f. Riprap material must consist of clean rock or masonry materials. The use of metal products, organic materials, petroleum based materials, or unsightly debris is prohibited.

4. For installation of submerged and aerial power lines and utility lines:

Submerged utility lines and associated dredging or excavation:

- a. No submerged utility line installation which involves either temporary or permanent stream rechannelization is authorized by this regional permit. Such work will require an individual Department of the Army permit.
- b. Utility lines should be routed to avoid disturbance to vegetated wetlands. Wetlands unavoidably impacted during the installation of the pipeline must be restored to their original elevation. Displaced herbaceous wetland species which do not naturally revegetate within one year from the completion of the project must be replanted to the satisfaction of the District Engineer.
- c. The pouring of concrete for backfill of utility line trenches must be accomplished within a cofferdam unless the activity can be performed completely in the dry, such as during lake drawdown periods. The introduction of uncured concrete into surface waters is prohibited.
- d. Note that the discharge of material for backfill or bedding for submerged utility lines is authorized by Nationwide Permit 12 - Utility Line Backfill and Bedding, provided the requirements contained in the Norfolk District Regional Condition are met. The Corps Nationwide Permits were published in the Federal Register (61 FR 65874) on December 13, 1996 and the regulations governing their use can be found in 33 CFR 330 published in Volume 56, Number 226 of the Federal Register dated November 22, 1991. The Norfolk District Regional Condition is as follows: "Whenever possible, excavated material shall be placed on an upland site. However, when this is not feasible, temporary stockpiling is hereby authorized provided that: (a) All excavated material stockpiled in a vegetated wetland area is placed on filter cloth, mats, or some other semi-permeable surface. The material will be stabilized with straw bales, filter cloth, etc. to prevent reentry into the waterway. (b) The excavated

material must be placed back into the trench to the original contour and all excess excavated material must be completely removed from the wetlands within 30 days after the utility line has been installed through the wetlands area. Permission must be granted by the District Engineer or his authorized representatives if the material is to be stockpiled longer than 30 days.”

e. Note that the discharge of material for the construction of submerged utility transmission line footings is authorized by Corps Nationwide Permit 25 - Structural Discharge. The Corps Nationwide Permits were published in the Federal Register (61 FR 65874) on December 13, 1996 and the regulations governing their use can be found in 33 CFR 330 published in Volume 56, Number 226 of the Federal Register dated November 22, 1991.

f. Note that the discharge of material for the construction of temporary cofferdams is authorized by Corps Nationwide Permit 33 - Temporary Construction, Access and Dewatering, provided the requirements contained in the "Notification " General Condition are met. The Corps Nationwide Permits were published in the Federal Register (61 FR 65874) on December 13, 1996 and the regulations governing their use can be found in 33 CFR 330 published in Volume 56, Number 226 of the Federal Register dated November 22, 1991.

g. For linear pipeline projects, the applicant must supply the U. S. Fish and Wildlife Service with information concerning the intended route of the entire project so that they may, if necessary, exercise their authority under Section 9 of the Endangered Species Act.

Aerial transmission lines and other overhead lines:

a. The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the U.S. Coast Guard for new fixed bridges, in the vicinity of the proposed power line crossing. The clearances are based on the low point of the line under conditions which produce the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code.

Minimum additional clearance above clearance required for bridges

<u>Nominal system voltage, kilovolt:</u>	<u>Feet</u>
115 and below.....	20
138.....	22
161.....	24
230.....	26
350.....	30
500.....	35
700.....	42
750 to 765.....	45

b. The minimum clearance for aerial communication lines and any other lines not transmitting electrical power will be a minimum of ten feet above the clearance required for bridges in the vicinity. Overhead lines which require fill other than for footings and temporary access, or dredging for construction access will not qualify for this regional permit.

c. Note that the discharge of material for the construction of aerial transmission line footings is authorized by Corps Nationwide Permit 25 - Structural Discharge. The Corps Nationwide Permits were published in the Federal Register (61 FR 65874) on December 13, 1996 and the regulations governing their use can be found in 33 CFR 330 published in Volume 56, Number 226 of the Federal Register dated November 22, 1991.

d. Note that the discharge of material for the construction of temporary access fills is authorized by Corps Nationwide Permit 33 - Temporary Construction, Access and Dewatering, provided the requirements contained in the "Notification " General Condition are met: The Corps Nationwide Permits were published in the Federal Register (61 FR 65874) on December 13, 1996 and the regulations governing their use can be found in 33 CFR 330 published in Volume 56, Number 226 of the Federal Register dated November 22, 1991.

e. For linear aerial transmission line projects, the applicant must supply the U. S. Fish and Wildlife Service with information concerning the intended route of the entire project so that they may, if necessary, exercise their authority under Section 9 of the Endangered Species Act.

f. The Federal Aviation Administration has responsibility for the marking of aerial transmission lines. Therefore, for those projects involving such work, an appropriate application should be submitted to the Federal Aviation Administration Eastern Regional Office, Air Traffic Division, JFK International Airport Federal Building, Jamaica, New York 11430 (Telephone 212-995-3390).

SPECIAL CONDITIONS FOR DISCHARGES:

1. If the activity involves a discharge of dredged or fill material, the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the Clean Water Act and published in 40 CFR 230.
2. No discharge of dredged or fill material may consist of unsuitable material (e.g.: trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
3. No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for adjacent bank stabilization.
4. The temporary placement or double-handling of excavated or fill material channelward of the normal high pool elevation is not authorized by this regional permit.
5. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water.
6. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
7. Any temporary fills must be removed in their entirety and the affected areas returned to their pre-existing elevation.
8. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

GENERAL CONDITIONS:

1. This regional permit will authorize work undertaken within the geographical limits of the counties of Mecklenburg and Brunswick within the Commonwealth of Virginia under the regulatory jurisdiction of the Norfolk District.
2. A copy of this permit and any verification letter must be provided to the contractor and made available at the project site to any regulatory representative.
3. (a) No activity is authorized under this permit which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the Norfolk District if any listed species or critical habitat might be affected or is in the vicinity of the project and shall not begin work until notified by the district engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.
(b) Authorization of an activity by this permit does not authorize the “take” of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g. an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal “takes” of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their world web pages at: <http://www.fws.gov/~r9endspp/endspp.html> and http://kingfish.ssp.nmfs.gov/tmcintyr/prot_res.html#ES and recovery
4. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized until the Norfolk District has complied with the provisions of 33 CFR 325, Appendix C. The prospective permittee must notify the Norfolk District if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the Norfolk District that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the Virginia Department of Historic Resources and the National Register of Historic Places.
5. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify the Norfolk District of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
6. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
7. Authorized activities must comply with Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”.
8. No activity may cause more than a minimal adverse effect on navigation.

9. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.
10. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.
11. The construction or work authorized by this permit will be conducted in a manner so as to avoid any degradation of water quality and/or damage to aquatic life where possible, and minimize any degradation where unavoidable. Also, you will employ measures to prevent or control spills of fuels or lubricants from entering the waterway.
12. Permittees are expected to fully comply with Virginia Administrative Code 9 VAC 25-260-10, Water Quality Standards, and all other appropriate laws and regulations of the Commonwealth of Virginia pertaining to water quality.
13. The permittee will make every reasonable effort to conduct the construction or operation of the work authorized by this permit in a manner so as to minimize any adverse impact on fish, wildlife and natural environmental values.
14. Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.
15. The permittee shall allow the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.
16. Failure to comply with the terms and conditions of this permit can result in enforcement actions against the permittee and/or contractor.
17. The provisions of this permit shall be binding on any assignee or successor in interest of the permittee.
18. In order to transfer this permit, the transferee must supply the Norfolk District with a written request to transfer the permit.
19. Should you be unable to complete the authorized activity in the time limit provided, you must submit your request for a time extension to this office for consideration at least one month before the permit expiration date.
20. In granting an authorization pursuant to this permit, the Norfolk District has relied on the information and data provided by the permittee. If, subsequent to notification by the Corps that a project qualifies for this permit, such information and data prove to be materially false or materially incomplete, the authorization may be suspended or revoked, in whole or in part, and/or the Government may institute appropriate legal proceedings.
21. Limits of this authorization:

- a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal projects.
- e. This permit does not grant any Corps real estate rights. If real estate rights are needed from the Corps, please contact Norfolk District's Real Estate Division at the address listed on the front page or telephone (757) 441-7735.

22. In issuing this permit, the Federal Government does not assume any liability for the following:
- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.

23. The Norfolk District may reevaluate its decision on your authorization under this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 20 above).
- c. Significant new information surfaces which this office did not consider in reaching the original decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost. In addition, unpermitted work or violation of permit conditions may result in civil, criminal or administrative penalties (33 U.S.C. 1319 c, d, and g).

24. This regional permit, unless further modified, suspended or revoked, will be in effect until August 14, 2008. Upon expiration, it may be considered for revalidation.

Date

Yvonne J. Prettyman-Beck
Colonel, Corps of Engineers
Commanding